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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,437	01/26/2004	Wade Spital	Spital-MotorBoard	1536

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WADE SPITAL  
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EXAMINER

WALTERS, JOHN DANIEL

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/765,437

Applicant(s)

SPITAL, WADE

Examiner

John D. Walters

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Claims 29 – 48 have been examined. Claims 1 – 28 have been canceled by Applicant.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 31 and 43 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not make mention of a “material with piezoelectric qualities” either alone or in conjunction with a speed control coupling.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29, 30, 37, 38, 41, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamen et al. (2001/0032743). Kamen et al. discloses a personal mobility vehicle composing:

- a rider support, i.e. a support platform (Fig. 1, item 12), which overlays the rest of the vehicle (Fig. 1);
- at least three wheels mounted below said rider support (page 3, paragraph 39);
- propulsion means (page 1, paragraph 4);
- said rider support having a steering control for enabling the rider to steer the vehicle by tilting side to side (page 8, paragraph 93);
- said rider support having a speed control for enabling the rider to modulate the speed of the vehicle by tilting forward and backward (page 8, paragraph 93);
- wherein the speed controller allows for forward and backward motion (page 5, paragraph 61);
- a speed control coupling, i.e. forceplate (page 5, paragraph 61);
- wherein said rider support is a platform like deck (Fig. 1, item 12);
- wherein said rider support is free of any upwardly extending supports (page 5, paragraph 61);
- wherein said rider support includes a seat (page 8, paragraph 92).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamen et al. (2001/0032743). Kamen et al. does not specifically mention biasing springs as the mechanism to set the direction and/or speed of the device when no input is received. However, Kamen et al. does state:

- “transporter 18...may also maintain a fixed position and orientation when the user 10 is not on platform 12” (page 3, paragraph 40) using an electro-mechanical control system (Fig. 5), i.e. the device is biased towards no movement and no pivoting if no user input is available.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use a purely mechanical biasing means, i.e. biasing springs, in place of the electro-mechanical control system of Kamen et al. to bias the speed and directional controls of the vehicle. This would allow for a simple, inexpensive control system.

Claims 32, 39, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamen et al. (2001/0032743) in view of White Sr. (3,751,062). Kamen et al. is silent on the inclusion of a removable handle. White Sr., however, discloses a scooter skateboard comprising:

- a removable handlebar (Fig. 1, items 14, 16, 18, and others making up the removable handle assembly).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the vehicle of Kamen et al. with the removable handle of White Sr. in order to provide a quickly removed steadying handle which can allow for multiple riding styles for said vehicle.

Claims 33, 40, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamen et al. (2001/0032743) in view of Favorito et al. (6,199,880). Kamen et al. is silent on the inclusion of a foldable handle. Favorito et al., however, discloses a convertible skateboard/scooter comprising:

- a handle (Fig. 1, item 300);
- a clamping articulation, i.e. handle bracket (Fig. 6, item 600).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the vehicle of Kamen et al. with the foldable handle of Favorito et al. in order to provide an attached but easily stowed handle which can allow for multiple riding styles for said vehicle.

Claims 34 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamen et al. (2001/0032743) in view of Martin (5,020,621). Kamen et al. does not make use of truck type wheel assemblies. Martin, however, discloses an electric motor powered skateboard comprising:

- a steerable truck attached below the body support (Fig. 1, items 12 and 13);
- at least two wheels being truck wheels (Fig. 4, item 16);

- a steering union, i.e. blocks (Fig. 4, item 14);
- at least one remaining wheel being a drive wheel rotationally coupled to a motor (Fig. 5);
- where said drive wheel is located substantially in front or behind said truck wheels (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the vehicle of Kamen et al. with the truck type wheel assemblies of Martin in order to provide simple and inexpensive wheel system.

Claims 35 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamen et al. (2001/0032743) in view of Martin (5,020,621) as applied to claims 16 and 26 above, and further in view of Buscaglia (6,193,249). Kamen et al. in view of Martin does not include a linkage between the wheel trucks and the body support. Buscaglia, however, discloses a turning mechanism for tandem wheeled vehicles comprising:

- a steering linkage coupling the body support to the steerable truck (Fig. 1a, item 30).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the vehicle/truck combination of Kamen et al. and Martin with the steering linkage of Buscaglia in order to assist the turning of the truck via tilting the body support.

***Response to Arguments***

Applicant's arguments filed 12/26/2005 have been fully considered but they are not persuasive.

Applicant states, "...claims 29, 37, and 41 recite a vehicle which is stably supported by at least three wheels."

As listed in the above rejection, Kamen shows the use wheels numbering more than two (page 3, paragraph 39).

Applicant also states, "Claims 29 and 37 now expressly recite a speed control coupling..."

Applicant admits that Kamen discloses a "forceplate" to detect leaning of the subject. This is functionally equivalent to Applicant's "speed control coupling". This limitation is included in the above rejection.

Applicant also states, "...claims 29 and 41 expressly recite a rider support that enables hands-free operation in the standing, sitting, and kneeling riding positions..."

Applicant admits that Kamen discloses a hands-free alternative mode of operation (Figs. 11 – 13). This limitation is included in the above rejection.

Applicant also states, "...claim 37, none of Kamen's embodiments include a seat for the rider."



As listed in the above rejection, Kamen discloses the use of a seat (page 8, paragraph 92).

Applicant also states, "The above novel claimed structure is also submitted to be unobvious and hence patentable over Kamen under § 103 for five reasons...new and unexpected results...unsolved need...assumed unworkability, lack of implementation, commercial acquiescence..."

The information listed in this section does not serve to distinguish the current application over the prior art of record.

Applicant also states, "Dependent claims 14-18 and 24-28...rewritten as new dependent claims 32-36, 39, 40, and 44-48...a fortiori submitted to be patentable for the same reasons as their independent claims."

See the above rejections for discussions of independent claim rejections.

For these reasons, the rejections stand.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John D. Walters  
Examiner  
Art Unit 3618

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 3/6/06  
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